



INTENDED USE PLAN

Commonwealth of Puerto Rico
Water Pollution Control Revolving Fund
Federal Fiscal Year 2010

Government of Puerto Rico
Environmental Quality Board
April 2011



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1 INTRODUCTION

The Clean Water State Revolving Fund (CWSRF) was established to help finance projects that improves, maintains or protects water quality. CWSRF provided more funds annually to fund water quality protection projects for wastewater treatment, nonpoint source pollution control, and watershed and estuary management.

The Puerto Rico Environmental Quality Board (PREQB) acting on behalf of the Commonwealth of Puerto Rico (Commonwealth) hereby submits to the U.S. Environmental Protection Agency (EPA), an Intended Use Plan (IUP) for federal fiscal year (FFY) 2010, which runs from October 1, 2009 to September 30, 2010. This IUP meets the requirements of Section 606(c) of the Clean Water Act, as amended (the Act).

These requirements of the Act are as follows:

- a. A list of those projects for construction of publicly owned treatment works on the Commonwealth's priority list developed pursuant to Section 216 of the Act. Also a list of activities eligible for assistance under Section 319 and 320 of the Act may be provided;
- b. A description of the short and long term goals and objectives of the Commonwealth of Puerto Rico Water Pollution Control Revolving Fund (WPCRF);
- c. Information on the activities to be supported, including a description of project categories, discharge requirements under Title III and IV of the Act, terms of financial assistance and communities served;
- d. Assurances and specific proposals for meeting certain requirements of the Operating Agreement and Capitalization Grant Agreement; and
- e. The criteria and methods established for the distribution of WPCRF funds.

To meet the Federal requirements pertaining to reporting on the environmental benefits, PREQB has committed to complete the EPA one page form at time of loan execution, therefore is exempt from providing such information at this time.

This IUP serves as the planning document for explaining the use of monies we expect to be available to the CWSRF through, including: the undrawn balance of Federal capitalization grants and State matching funds; projected repayments; interest earnings from the CWSRF program

equity; and the estimated FFY 2010 Federal capitalization grant and State matching funds. As currently developed, this IUP identifies the specific projects and activities associated with the federal allocations for FFY 2010 Title VI of the Act, as well as the repayment funds.

The FFY 2010 federal allocations under Title VI, as well as the corresponding Commonwealth match are as follow:

Table 1. Federal allocations under Title VI and Commonwealth match.

Federal Fiscal Year	Award Date	Federal Allocation	604 (b) Set Aside	Federal Allotment Less 604(b)	Commonwealth Match	Total
2010	*	\$26,843,434.00	\$268,434.34	\$26,575,000.00	\$5,315,000.00	\$31,890,000.00

* To be awarded by EPA on September 30, 2011 or prior to this date.

As of June 30, 2010, the total amount available from loan repayments and interest earnings is \$38,437,791.00

The WPCRF project list may include National Estuary and/or Nonpoint Source (“NPS”) projects, including groundwater activities.

2 GOALS

As required under the Act, the Commonwealth is to identify the goals and objectives of its Water Pollution Control Revolving Fund.

2.1 Short -Term Goals

The Commonwealth has the following goals and objectives for the WPCRF Program over the short term:

***Goal #1:** Establish and manage an effective and comprehensive Water Pollution Control Revolving Fund Program. The Commonwealth outlined five (5) objectives in order to achieve this goal, as shown below:*

Objective 1.A: To develop and implement administrative rules and guidelines for managing the WPCRF program.

Objective 1.B: To develop and implement an annual IUP and prepare and submit along with the IUP an annual application for the capitalization grant.

Objective 1.C: To develop and implement standard operation procedures and policies for managing the WPCRF program.

Objective 1.D: To ensure the use of accounting, auditing and fiscal procedures that conforms to generally accepted government accounting standards.

Objective 1.E: To develop and submit an annual report to EPA covering the accomplishments of the IUP.

Goal #2: Maintain a self-sustaining revolving loan program through the WPCRF so as to improve and protect water quality and public health. Associated to this goal are several objectives, which have been achieved, although others are in process.

Objective 2.A: To ensure and provide low cost financial assistance to all qualified applicants seeking WPCRF loans for wastewater treatment facilities.

Objective 2.B: To coordinate WPCRF activities among PREQB, Puerto Rico Infrastructure Finance Agency (PRIFA) and any qualified loan applicant.

Objective 2.C: To maintain a self-sustaining revolving loan program through EQB administration.

Goal #3: Provide PRASA or other qualified applicants with low-cost financial assistance for necessary wastewater treatment facilities.

Objective 3.A: To encourage and work with any other qualified applicant to assess financial capabilities and determine the best financial alternatives.

2.2 Long-Term Goals

In addition to these short-term goals, the Commonwealth has the following long term goals for the WPCRF program:

Goal #1: Ensure compliance by all publicly owned treatment works with Commonwealth water quality goals and standards and the enforceable deadlines, goals and requirements of the Act.

Goal #2: Ensure technical integrity of WPCRF projects by ensuring adequate and effective planning, design and construction management.

Goal #3: Maintain an adequate data management system in tracking and monitoring all WPCRF projects and program information.

***Goal #4:** Integrate effectively procedures and guides that facilitate the implementation of sustainable infrastructure to the projects financed by the program.*

3 INFORMATION ON ACTIVITIES TO BE SUPPORTED

Information pertinent to each WPCRF project is contained in Appendix B which will be submitted by the applicant pursuant to Section 606(c) (3) of the Act. As identified in the Capitalization Grant applications, PREQB intends to use 4% of the federal funds for administrative support. Based on WPCRF funds available in FFY 2010, PREQB will use up to \$1,063,000 from the Title VI federal allocation for administrative support for developing, managing and operating the WPCRF program. Appendix C identifies the proposed disbursement schedules for administrative expenses.

Activities related to the implementation of NPS projects, including groundwater control, and the National Estuary program are not included in this IUP at this time, but it may be amended to include them for funding under the WPCRF program.

3.1 Green project Reserve

The provision in the FFY 2010 Appropriation bill states that: “Provided, that for FFY 2010, to the extent there are sufficient eligible project applications, not less than 20 percent of the funds made available under this title to each State for Clean Water State Revolving Fund capitalization grants shall be used by the State for projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities.” These four categories of projects are the components of the GPR and define “green” projects.

3.2 Davis Bacon compliance

The provision in the FFY 2010 Appropriation bill states that: “For fiscal year 2010 the requirements of section 513 of the Federal water pollution Control Act (33 U.S.C. 1372) shall apply to the construction of treatment works carried out in whole or in part with assistance made available by a State Water Pollution Control Revolving Fund as authorized by title vi of that Act (33 U.S.C. 1381 et seq.), or with assistance made available under section 205 (m) of that Act (33 U.S.C. 1285 (m)), or both.”

3.3 Energy initiatives

PREQB is seeking to assist all projects receiving CWSRF financing to increase project energy efficiency. The long-term goal of this effort will be to identify energy saving opportunities earlier in the planning process for new projects. By doing so, these opportunities can then be more easily incorporated into the scope of work for CWSRF financed projects. All engineering reports submitted should contain a description of increased energy efficiency features considered in the design documents. The engineering report should also include, where practicable, a present value energy savings analysis of all design alternatives considered, with energy use and cost assumptions clearly identified.

3.4 Bypass Financing

The Commonwealth expects that the projects described in the FFY 2010 project list in Table 5 will proceed in the order as they are listed. However, if for any reason, any of those projects did not proceed; projects included in the FFY 2010 Contingency List (Table 5) may be eligible for CWSRF funds through bypassing. Projects described in the FFY 2010 Contingency List will be considered in the order that they appear. In case the first contingency project is not ready, the Commonwealth will proceed with the next project described in the list and so on.

4 FUNDS AND FINANCING

4.1 Proposed Funding

Applicants whose projects are listed in the CWSRF subsidized funding are eligible for a subsidy as detailed in section 4.3. Of the \$2.1 billion of appropriation for the CWSRF for the FFY 2010, Puerto Rico CWSRF would receive \$26,575,000. This is reflected in this IUP.

4.2 SRF Funds and Repayments

The Federal Fiscal Year 2010 allocation under Title VI, as well as the corresponding Commonwealth match is as follow:

Table 2. Federal Allocation, Commonwealth match and Green Project Reserve

Federal Fiscal Year	Award Date	Federal Allocation	604 (b) Set Aside	Federal Allotment Less 604(b)	Commonwealth Match	Total	Green Reserve Project Amount
2010	*	\$26,843,434.00	\$268,434.34	\$26,575,000.00	\$5,315,000.00	\$31,890,000.00	\$5,315,000.00

* To be awarded by EPA on September 30, 2011 or prior to this date.

As of June 30, 2009, the total amount available for loan repayments and interest earnings is \$15,058,056. As of June 30, 2010 an additional \$23,379,735 of repayments funds are available.

Appendix A identifies the proposed disbursement schedules for using the FFY 2010 funds. The disbursement schedules identify the anticipated amount of and the time over which Federal and Commonwealth funds will be expended from the WPCRF. Appendix B list additional information concerning the WPCRF projects identified above.

For the payment using the EPA Automated Clearing House, PREQB will deposit, on or before the date of payment, an amount equal to 20 percent of each payment. PREQB will cause the Puerto Rico Infrastructure Financing Authority (PRIFA) to enter into binding commitments in an amount equal to 120 percent of each payment within one year of receipt of such payment. The binding commitment will be evidenced by a loan agreement executed by PRIFA and the qualified applicants.

The following sets out the Federal Automated Clearing House payment and Commonwealth match deposit schedule:

Table 3. Federal automated clearing house payment and commonwealth match deposit schedule.

FISCAL YEAR	DATE	FEDERAL PAYMENT	COMMONWEALTH MATCH	TOTAL
2010	One year after award date	\$26,575,000	\$5,315,000	\$31,890,000

The following summarizes the availability of project funding:

Table 4. Summary of funds available as a result of the federal Capitalization grants. FFY 2010

I. SOURCES OF FUNDS			
1	Prior Year Carry Over Funds	+	\$ -
2	Current Year Grant (FFY 2010*)	+	\$26,575,000
3	Commonwealth Matching Share	+	\$5,315,000
4	Repayments to the SRF and Interest Earned from Loans (As of June 30, 2009)	+	\$38,437,791
5	Other Income to the Fund	+	
6	Total WPCRF Funds Available	+	\$70,327,791
II. USES OF FUNDS			
1	Total WPCRF Funds Available		\$70,327,791
2	4% Administrative Cost	-	\$1,063,000
3	Available for Projects	=	\$69,264,791

* To be awarded by EPA on September 30, 2011 or prior to this date.

As identified in the Capitalization Grant applications, EQB intends to use 4% of the federal funds for administrative support. Based on WPCRF funds available in FY 2010, EQB will use up to \$1,063,000 from the Title VI federal allocation for administrative support for developing, managing and operating the WPCRF program. Appendix C identifies the proposed disbursement schedules for administrative expenses.

4.3 Additional Subsidization

The additional subsidy provision in the FFY 2010 Appropriation Bill states that “not less than 30 percent of the funds made available under this title to each State for Clean Water State Revolving Fund capitalization grants and not less than 30 percent of the funds made available under this title shall be used by State to provide additional subsidy to eligible recipients in the form of forgiveness of principal, negative interest loans, or grants (or any of the combination of this). This section shall only apply to the portion that exceeds \$1,000,000,000”

The Calculation of the Additional Subsidization for the CWSRF program is as follow:

- a. Of the \$2.1 billion provided by the FY 2010 Appropriations Act, \$1,996,915,000 is available for capitalization grants to the 51 CWSRF programs after accounting for the set-asides and territory allocations. The additional subsidization provision only applies to \$996,915,000, or the portion of the \$1,996,915,000 available for capitalization grants that exceeds \$1 billion.
- b. Nationally, the maximum amount of additional subsidization that may be provided is \$996,915,000 and the minimum amount that must be provided is \$299,074,500, which is 30 percent of \$996,915,000.

The FFY 2010 CWSRF appropriation included authorization to provide additional subsidization, and PREQB intends to offer the maximum amount of \$13,266,972 allowable.

4.4 Bypass Financing

PREQB has included subsidy lines in this IUP to identify which projects will likely receive CWSRF subsidized funding. Historically, not all applicants with projects above the subsidy line proceed with their projects. PREQB will “bypass” these funds to other projects within the same category and some applicants with projects below the subsidy lines may become eligible for CWSRF subsidized funding. PREQB will bypass funds to communities with projects listed

below the subsidy line. It is not possible to determine which communities will be reachable for subsidized financing through the bypass process at this time. As such, communities with projects below the subsidy line may wish to consider taking advantage of the SRF Guarantees.

The Commonwealth expects that the projects described in the FFY 2010 project list in Table 5 will proceed in the order as they are listed. However, if for any reason, any of those projects did not proceed; projects included in the FFY 2010 contingency List may be eligible for CWSRF funds through bypassing. Projects described in the FFY 2010 Contingency List will be considered in the order that they appear. In case the first contingency project is not ready, the Commonwealth will proceed with the next project described in the list and so on.

4.5 Waivers

PREQB needs to comply with a minimum of 20% designated to eligible GPR projects. However, if at any time, it is determined that it cannot meet the 20 percent GPR requirement, PREQB may request a waiver from EPA. These requests will be reviewed by EPA on a case by case basis. EPA will use sample actions as a guide when deciding whether to approve or disapprove a State's request for a waiver from GPR.

If EPA approves a State's request for relief from the GPR requirement, then the portion of the GPR for which there are no qualified applications can be used for other conventional, eligible projects. If EPA does not approve a State's request, then the State must continue trying to solicit projects.

However, the PREQB agrees to make a timely and concerted solicitation for projects that address green infrastructure, water or energy efficiency improvements or other environmentally innovative activities. The PREQB agrees to include in its IUP such qualified projects or components of projects that total not less than 20 % of its capitalization grant. If the 20 % is not reached, the PREQB agrees to conduct additional solicitation, to amend its project list in order to include any such qualified projects thus identified and be able to provide not less than 20 % of the FFY 2010 funds available. If there are not sufficient qualified projects or components on the amended project list after such additional solicitation, the PREQB may if necessary submit a waiver request to EPA in accordance with the FFY 2010 Procedures.

5 LISTING OF WATER POLLUTION CONTROL REVOLVING FUND PROJECTS

PREQB shall include a list of eligible projects for receiving funds from the FFY 2010 appropriations and repayment funds under the WPCRF Program. The following is the list of WPCRF projects that are being considered for funding:

Table 5. WPCRF Project funding

FEDERAL FISCAL YEAR	NAME	PROJECT TYPE	PROJECT ELIGIBLE COST	LOAN AMOUNT	GPR
2009 Repayments Funds	Villa Carolina Pump Station Rehab. – Carolina (C-72-250-01) NPDES No. (PR0023752)	Design & Construction	\$6,046,688	\$5,065,230	-
	Cocos Community SSS – Salinas (C-72-128-18) NPDES No. (PR0025445)	Design & Construction	\$13,004,249	\$6,492,826	-
	Mayagüez Terrace SSS Improvements – Mayagüez (C-72-120-13) NPDES No. (PR0023795)	Design & Construction	\$4,830,270	\$3,500,000	-
Subtotal			\$23,881,207	\$15,058,056	-
2010	Aguirre WWTP Improvements (Phase I-IV) – Salinas (C-72-128-19) NPDES No. (PR0001660)	Design & Construction	\$ 21,500,000	\$ 17,560,028	\$ 17,000,000
	Buenos Aires Laterals (Phase II) – Arecibo (C-72-087-70) NPDES No. (PR0023710)	Design & Construction	\$ 18,567,626	\$ 13,266,972**	\$ 4,162,500
Subtotal			\$40,067,626	\$30,827,000	\$21,162,000
** To be provided as additional subsidization in the form of grant					
FFY 2010 Contingency	Aguirre WWTP Improvements (Phase V) – Salinas (C-72-128-19) NPDES No. (PR0001660)	Design & Construction	\$ 4,500,000	\$ 4,500,000
	Buenos Aires Laterals (Phase III) – Arecibo (C-72-087-70) NPDES No. (PR0023710)	Design & Construction	\$ 8,245,000
Subtotal			\$12,745,000
2010 Repayments Funds	Luyando Comm. & Quebrada Gallinero – Aguada (C-72-102-22) NPDES No. (PR0023736)	Design & Construction	\$ 1,897,882	\$ 740,000	
	Vista Verde Community SSS – Aguadilla (C-72-100-33) NPDES No. (PR0023736)	Design & Construction	\$ 6,887,919	\$ 2,731,659	
	Las Croabas SSS – Fajardo (C-72-116-15) NPDES No. (PR0026484)	Design & Construction	\$ 12,942,992	\$ 11,089,936	
	Sandin Community SSS and PS – Vega Baja (C-72-050-05) NPDES No. (PR0021679)	Design & Construction	\$ 10,831,828	\$ 4,121,240	
	Alt. de Orocovis SSS & El Gato Comm. – Orocovis (C-72-142-04) NPDES No. (PR0020745)	Design & Construction	\$ 9,140,306	\$ 4,696,900	
Subtotal			\$41,700,927	\$23,379,735	

The WPCRF project list may include NPS projects and activities once the Commonwealth's NPS Assessment and Management Program is approved and the Priority System is revised to include such projects and activities.

6 CRITERIA AND METHODS OF DISTRIBUTION OF FUNDS

In previous years PREQB has developed a Priority Ranking System and Project Priority List that provided an order of ranking wastewater facilities projects in considering eleven (11) criteria:

- Potential clientele
- Treatment plants and analog systems
- Main trunk/sewer and analog systems
- Cost-benefit of collection
- Critical health problems
- Protection of water resources according to their uses
- Facilities under Court Order
- Projects funded with discretionary funds
- Innovative or alternative systems projects
- Pump station rehabilitation projects
- Tie breaking

Also the following factors were taken into consideration to fund projects:

- request to be by-passed for funding considerations;
- non-compliance of projects with the enforceable requirements of the Act;
- delays of high priority projects because of non-completion of preceding step and funding of lower priority projects if ready for funding.

Similarly, lower priority projects considered to be an essential part of an eligible project may be selected and by pass projects with a higher priority.

With the approval of the New Permitting Process, Act No. 161 of December 1, 2009, the Puerto Rico Commonwealth permitting process has been substantially modified. These modifications caused a change in the criteria and methods of the distribution of funds described above.

Pursuant to Title VI of the CWA, on September 26, 1991, EPA entered into the State Revolving Fund Operating Agreement with the Commonwealth of Puerto Rico (Operating Agreement). This agreement authorizes PREQB to run the Revolving Fund Program. Under section II.B.2 of the operating Agreement, PREQB is required to “implement and enforce a ‘NEPA like’ review process for all Section 212 projects [and] to conduct [] activities detailed in the Environmental Review Process [.]

Article 8.5 of the Permitting Process Reform, Act No. 161 of December 1, 2009 states that “....The executive director of the Permits Management Office or the Administrative Board, as correspond, will determine the environmental compliance requirements....” This Act limits PREQB only as an Agency that recommends but does not have the final decision.

Due to time constraints in the availability and duration of funds, the projects included in this IUP are the ones ahead in the State Environmental Review Process, with an approved Environmental Document by the PREQB. At this moment, the new PR Permitting Office is not included in the CW SRF Operating Agreement and PREQB cannot certify this new office has a NEPA like Environmental Review process which puts on hold other projects which applied for FY 2010 funds. The environmental reviews and compliance process for the projects included in this IUP were performed by the PREQB ensuring the NEPA-like process as required by the Operating Agreement.

7 PUBLIC PARTICIPATION

For this IUP, a public participation process was undertaken in accordance with 40 CFR 35.3150. A public hearing was held to review PREQB’s Project Priority List and receive comments on the same. Summaries of the public participation process were prepared and made public available.

8 ASSURANCES AND SPECIFIC PROPOSALS

EQB provides the necessary assurances and certifications as part of the Operating Agreement. This Agreement is the official operating agreement between EQB acting on behalf of the Commonwealth and EPA.

9 ANNUAL REPORT

Section 606(d) requires that beginning the first year after receiving payments under the WPCRF, EQB shall provide an Annual Report to EPA. The Annual Report shall be submitted to EPA within 90 days after the end of the fiscal year covered by the IUP. This report shall identify loan recipients, loan amounts and terms under Title VI of the Act and its implementing regulations and other such information as EPA may require.

10 APPENDICES

10.1 Appendix A

To be submitted shortly

10.2 Appendix B

To be submitted shortly

10.3 Appendix C

PROPOSED DISBURSEMENT SCHEDULE OF FEDERAL AND STATE FUNDS FOR ADMINISTRATIVE EXPENSES (FY 2010)				
Disbursement by Quarters (FY 2010)		Federal (83.33%)	State (16.67%)	Amount
Fiscal Year	Quarter			
2010	4	221458	44292	265,750
2011	1	221458	44292	265,750
2011	2	221458	44292	265,750
2011	3	221458	44292	265,750
SUBTOTAL		\$885,833.33	\$177,166.67	\$1,063,000.00